

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)	
)	
)	
v.)	Case ID No.: 1910004381
)	
)	
AARON RICHARDS,)	
)	
Defendant.)	

ORDER

Submitted: December 13, 2021
Decided: February 22, 2022

AND NOW TO WIT, this 22nd day of February, 2022, upon consideration of Defendant Aaron Richard (“Defendant”)’s December 13, 2021 Motion for “3901(d) Fixing Term of Imprisonment,” the sentence imposed upon Defendant, and the record in this case, it appears to the Court that:

1. On October 12, 2020, after an appropriate colloquy, Defendant pled guilty to Possession of a Firearm by a Person Prohibited and Possession of Ammunition by a Person Prohibited.¹ He was sentenced to serve a minimum mandatory sentence of five years,² followed by transitioning levels of probation.³

¹ Final Case Review: Defendant Pled Guilty/Sentenced, D.I. 11.

² See 11 *Del. C.* § 1448(e)(1)(b) (“[A]ny person who is a prohibited person . . . and who knowingly possesses, purchases, owns or controls a firearm . . . while so prohibited shall receive a minimum sentence of [f]ive years at Level V, if the person does so within 10 years of the date of conviction for any violent felony . . .”).

³ Sentence: Approved ASOP Order Signed and Filed, D.I. 13.

2. On December 22, 2020, Defendant filed his first Motion for Modification of Sentence.⁴ The Court denied this Motion on February 19, 2021.⁵ This Court denied additional requests for sentence modification on September 21, 2021,⁶ October 1, 2021,⁷ and November 9, 2021.⁸

3. Defendant files this motion entitled “Motion for § 3901(d) Fixing Term of Imprisonment,”⁹ and argues this Court “erred in setting judgment on October 18th, 2021” in its November ruling in denying his motion under Rule 35(b).¹⁰ Defendant argues that his motion should have been considered under 11 *Del. C.* § 3901(d).¹¹ In this request, he asks again “not to ware house [sic] at Level V, but rather to provide him with an opportunity to be successfully rehabilitated through a uniformly organized system of constructive rehabilitation.”¹²

4. The Court was clear in its November 9, 2021, Order that although Defendant did not specifically cite to Rule 35(b) in his letter, “[t]here is no separate procedure, other than that which is provided under Superior Court Criminal Rule 35, to

⁴ Motion for Modification of Sentence, D.I. 14.

⁵ Motion for Modification of Sentence Denied, D.I. 15.

⁶ Motion for Modification of Sentence Denied, D.I. 19.

⁷ Motion for Modification of Sentence Summarily Dismissed, D.I. 21.

⁸ Motion for Modification of Sentence Denied, D.I. 19

⁹ *See* Motion for Modification of Sentence, D.I. 27 [hereinafter Motion].

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² *Id.* at 2-3.

reduce or modify a sentence.”¹³ He requests reduction of his Level V time. Thus, his request was properly considered under Rule 35.

5. Furthermore, the Court sentenced Defendant to the most lenient five-year minimum mandatory period of incarceration and reiterates that the provisions regarding concurrent/consecutive sentences under 11 *Del. C.* § 3901(d)¹⁴ are not applicable.

6. Finally, Defendant requests sentence review under 11 *Del. C.* § 4217(b).¹⁵ Under 11 *Del. C.* § 4217(b), “[t]he court may modify the sentence solely on the basis of an application filed by the Department of Correction for good cause shown”¹⁶ The Department has made no filing. Your motion lacks a basis for consideration.

WHEREFORE, Defendant’s Motion for reconsideration of this Court’s November 9 Order under 11 *Del. C.* § 3901(d) is **DENIED**, and the request for sentence review under 11 *Del. C.* § 4217(b) is **SUMMARILY DISMISSED**.

/s/ Vivian L. Medinilla
Vivian L. Medinilla
Judge

oc: Prothonotary
cc: Defendant
Jillian Schroeder, Esquire
Investigative Services Office

¹³ See Order: Motion for Modification of Sentence is Summarily Dismissed, D.I. 25, ¶ 6.

¹⁴ See 11 *Del. C.* § 3901(d) (“The court shall direct whether the sentence of confinement of any criminal defendant by any court of this State shall be made to run concurrently or consecutively with any other sentence of confinement imposed on such criminal defendant. . . .”).

¹⁵ Motion, at 5.

¹⁶ 11 *Del. C.* § 4217(b).